

Remarks/Arguments

Claims 1-17 are pending in the application. Reconsideration and reexamination are requested. Claims 2-3 and 5 have been cancelled.

Claim 1 has been amended to recite that the body portion having first and second end section is configured to engage into and is received in said opening (of the end piece). Support can be found at paragraph [0028] of the published application which recites that the shank 12 (body) and end pieces are assembled by fitting each end of the shank (body) in to one of the respective end pieces. No new matter has been entered.

Claim 1 has also been amended to clarify that it is the raised ridge section of the end piece that overlies and protects said edge section of the body portion. Support can be found at paragraph [0020] of the published application which discloses that the end pieces may include raised ridge section 15.” Accordingly, no new matter has been entered.

Furthermore, claim 1 has been amended to include the subject matter of dependent claim 5. Specifically, the feature that the opening in said end piece opening defines a diameter d_1 , and said body portion having a first and second end section defines a diameter d_2 at said first and second end section, and $d_1 < d_2$. Accordingly, no new matter has been entered.

The Examiner has again rejected claims 1-8, 10, 12-15 and 17 under 35 U.S.C. 102(e) as being anticipated by Handelsman (USP 7,017,523). In view of the amendments to claim 1 noted above, it is respectfully submitted that Handelsman no longer support a rejection under either 35 USC 102 and/or 103.

However, before reviewing Handelsman, there are certain points that applicant would like to offer relative to the Office Action of September 21, 2007. At page 3 of the office action, a paragraph is provided identifying the position of the Examiner in rejection of claim 1. In particular, the Office Action recites as follows:

“Handelsman discloses a body portion including an outer layer (701) having a first hardness and a rigid supporting core (i.e. shaft, not shown), the body portion having a first and second end section thereof and an end piece (703) including a raised ridge section (as viewed, for example, in figure 11, adjacent hub 711a) wherein the end

piece overlies and protects the edge section of the body portion from contact with the animal during chewing, wherein the end piece configured to engage the body portion including an opening (reference column 7, lines 21-24).”

It is respectfully noted that the above analysis of Handelsman did not properly consider all of the claim limitation, which is considered necessary for a 102 rejection. In particular, claim 1 recited the feature that the end piece have a hardness that was greater than the first hardness, which first hardness was reference to the hardness of the body portion. It is not seen where Handelsman discloses or suggests such feature.

Furthermore, when rejecting dependent claim 14 and 15, which individually recited that the body portion was on the Shore A scale and that the first and second end pieces were on the Shore D scale, it was written that such feature was “inherent” in Handelsman. This is not understood to be the case. Handelsman’s discussion of material for his device appears at column 5, lines 21-29. At this section of the reference, it is disclosed that the “rotating elements” may be “rubber-type” material. Applicant searched and was unable to find any disclosure or teaching as to the relative hardness for Handelsman’s end caps and any disclosure or teaching regarding a differential hardness as between the end caps and the rotating elements.

Handelsman appears to be directed at a pet chew comprising a first and second member in *rotatable* orientation to one another mounted on a shaft, wherein a plurality of scrubbing elements may be mounted on a first surface of each of the members, the first surfaces being generally perpendicular to the axis of rotation of the members around the shaft. In another embodiment, the members may comprise circular discs.

There are several features of the amended claims that are not believed disclosed or suggested in Handelsman. As noted, these include the feature that the end pieces include a raised ridge section, that the raised ridge section overlies and protects an edge section of the body portion, that the body portion has a hardness that is less than the end piece that includes the raised edge, and that the end sections of the body portion engage into and are received in the opening of the end piece. For at least these reasons alone it is now believed that the application satisfies the requirements of patentability under 35 USC 102 and/or 103 with respect to Handelsman.

Dependent claims 2-8, 10, 12-15 and 17 all depend directly or indirectly from amended claim 1 and are therefore believed to be similarly distinguished over Handelsman as noted above. Thus, it is respectfully submitted that Handelsman does not teach or suggest the animal chew toy that is now presented herein by way of amended claim 1.

Claims 9 and 11 were rejected under 35 U.S.C. 103(a) as being unpatentable over Handelsman (USP 7,017,523). Claims 9 and 11 depend directly or indirectly from amended claim 1 and are therefore believed to be similarly distinguished over Handelsman as noted.

Claim 16 was rejected under 35 U.S.C. 103(a) as being unpatentable over Handelsman (USP 7,017,523) as applied to claim 1, and in further view of Klaus et al. (USP 6,676,481). Claim 16 depends directly from amended claim 1 and is therefore believed to be similarly distinguished over Handelsman as noted. Klaus does not make up for the deficiencies of Handelsman.

Given the distinctions between the present invention and the cited art, it is believed that the previous prior art rejection has been overcome and that the claims are in condition for allowance. Allowance at an early date is respectfully solicited.

In the event the Examiner deems personal contact is necessary, please contact the undersigned attorney at (603) 668-6560.

In the event there are any fee deficiencies or additional fees are payable, please charge them (or credit any overpayment) to our deposit account No. 50-2121.

Respectfully submitted,

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